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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,671

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Andreas Haug

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11/09/2009

DUANE MORRIS LLP - Philadelphia

IP DEPARTMENT

30 SOUTH 17TH STREET

PHILADELPHIA, PA 19103-4196

EXAMINER

YOUNKINS, KAREN L

ART UNIT

PAPER NUMBER

3751

MAIL DATE

DELIVERY MODE

11/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,671

Applicant(s)

HAUG ET AL.

Examiner

KAREN YOUNKINS

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 7-9, 11, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7-9, 11, and 13-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is responsive to the amendment dated 6/26/2009. Responsive to the amendment, claims 2-6, 10, and 12 have been canceled. Claims 1, 7-9, 11, and 13-14 are currently pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding Claim 14, "disk-shaped" could vary substantially. It is unclear as to what structural features the term "disk-shaped" includes or excludes.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 7-9, 11, and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 1,078,283 to Hilfiker.

7. Hilfiker discloses a wall mounting for a detachable shower head 1. It comprises a holder 4 for the shower head 1. The holder works through interference fit, by engaging

the outer perimeter of the shower head housing 1. The housing is 'unrecognizable' as being shaped for the mount. The shower head is shaped for this purpose. The shower head remains functional when removed from the holder. The holder engages diametrically opposed points on the shower head via a pair of jaws A gripping the shower head as claimed. The jaws are drawn together when the shower head is in place (lines 78-91). The pair of jaws is joined to the holder by a component under tension B. The tension component contacts the shower head over an 'extended' area. The holder is between tines of a fork C. The shower head 1 is in the shape of a shower head and is disc-shaped. The shower head also has a grip 15/16.

8. Claims 1, 7-9, 11, and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,091,998 to Peterson.

9. Peterson discloses a wall mounting for a detachable shower head 22. It comprises a holder 10 for the shower head 22. The holder acts by means of an interference fit, by engaging the outer perimeter 34/36 of the shower head housing 22. The shower head is shaped for this purpose. The mount engages two locations 34/36 that are opposing one another on the shower head. The holder engages on the housing via a pair of jaws 82/84 gripping the shower head 22 that are drawn together when the shower head is in place as claimed. The jaws are joined together by a component 42 under tension. The tension component 42 contacts the shower head over an 'extended area'. The shower head remains operational when withdrawn from the mounting. The holder is arranged between tines of a fork 72/74. The shower head is shaped in the

form of a shower head and includes a grip. The housing of the shower head is disc shaped.

Response to Arguments

10. Applicant's arguments, see the remarks, filed 6/26/2009, with respect to the rejection of claims 1-14 on the grounds of obviousness-type double patenting over US Pat. Des. 492,004 have been fully considered and are persuasive. This rejection of claims 1-14 has been withdrawn.

11. Applicant's arguments, see the remarks, filed 6/26/2009, with respect to the rejection of claims 1-14 on the grounds 35 U.S.C. 102(e) have been fully considered and are persuasive. This rejection of claims 1-14 has been withdrawn.

12. Applicant's arguments filed 6/26/2009 regarding the definiteness, Hilfiker, and Peterson rejections, have been fully considered but they are not persuasive.

13. Regarding the rejection of claims 1-14 under 35 U.S.C. 112 Second Paragraph indefiniteness, the examiner would like to thank the applicant for amending the claim language to be more clear. Regarding the language "disk-shaped" of claim 14, the examiner maintains the position that the claim language renders the claim indefinite as "disk-shaped" could vary substantially. It is unclear as to what structural features the term "disk-shaped" includes or excludes. Regarding pp-6 of the previous office action, there is no further rejection of claim 14. The repetitive language was a typographical error on the part of the examiner and is subsequently withdrawn in the current action.

14. Regarding the rejection of claims 1-14 as being anticipated by Hilfiker, the applicant has asserted on page 8 that Hilfiker fails to teach a wall mounting whereby a

hand-shower can be placed in a wall mounting or alternatively removed from the wall mounting and directed manually. The examiner respectfully submits this argument is not commensurate with the scope of the claims. The claims do not require the hand-shower to be able to be directed manually, only that the shower head remains operational when withdrawn from the mounting. The shower head is certainly 'operational' for a variety of uses when withdrawn from the mounting. Further, it is noted that there is no structure of Hilfiker that would limit the device's ability to be mounted on a wall. On page 9 the applicant has asserted that there is no teaching in Hilfiker about wall mounting nor engaging and releasing a hand shower housing from any structure. It is respectfully submitted that as Hilfiker is capable of performing the intended use set forth in the preamble of being mounted on a wall the structure meets the limitation of being a 'wall mounting' in so much as the instant application is. The remaining functional limitations set forth in the claims have been fully considered but do not appear to impose any patentably distinguishing structure over that of Hilfiker. Further, on page 9 the applicant has asserted that handles are required if there is to be a manual grip in the reference to enable the device to be manipulated. It is respectfully submitted that this argument is not commensurate with the scope of the claims. Further, it is noted that as the elements of Hilfiker are not formed of one piece they are perfectly capable of being manipulated.

15. Regarding the rejection of claims 1-14 as being anticipated by Peterson, on page 9 the applicant has asserted the opposed jaws 73,74 engage a hand grip and not the housing thus the device does not engage the shower head housing. It is respectfully

submitted that the applicant is confused regarding the examiner's rejection. As set forth in the rejection above, the jaws are represented at 82,84 not at 73,74. Further it is noted that this argument is not commensurate with the scope of the claims. The claims do not set forth a "shower head housing". The applicant has further asserted on page 9 that the holder is not attachable to a wall as claimed. However, it is submitted that there is no structure of Peterson that would limit the device's 'attachability' to a wall. Peterson is capable of being attached to a wall as set forth by the functional limitation "the holder is attachable to a wall".

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREN YOUNKINS whose telephone number is (571)270-7417. The examiner can normally be reached on Monday through Friday 7:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571)272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. Y./
Examiner, Art Unit 3751

/Gregory L. Huson/
Supervisory Patent Examiner, Art Unit 3751